



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX
75 Hawthorne Street
San Francisco, CA 94105

FEB 01 2017

Via Certified Mail
No. 7007 0710 0003 6240 3589

Notice of Intent to File a Complaint Pursuant to §3008(a) of the Resource Conservation and Recovery Act

Mr. Barry Kidd
Vice President and General Manager
AeroTurbine Aviation Engine and Management Solutions
1658 S Litchfield Road
Goodyear, AZ 85338

RE: Notice of Intent to File a Complaint, In re: AeroTurbine Aviation Engine and Management Solutions, EPA ID Number AZR000003483

Dear Mr. Kidd:

On March 16, 2016, representatives of the U.S. Environmental Protection Agency Region 9 (EPA) conducted a compliance evaluation inspection of the AeroTurbine Aviation Engine and Management Solutions facility (AeroTurbine or facility) located in Goodyear, AZ with EPA ID Number AZR000003483. This inspection was conducted under the authority of Section 3007(a) of the Resource Conservation and Recovery Act (RCRA), as amended, 42 U.S.C. § 6927(a).

Based on information gathered during EPA's investigation of the facility and subsequent information submitted by AeroTurbine in response to an information request, EPA is preparing to bring a civil administrative action to ensure compliance and assess penalties pursuant to Section 3008(a)(1) of RCRA, as amended, 42 U.S.C. § 6928(a)(1). The violations of the Arizona Administrative Code¹ (AAC) specified below are federally enforceable regulations under the State of Arizona's authorized RCRA hazardous waste management program. The allegations being considered are:

1. Treatment, storage and/or disposal hazardous waste without a permit, AAC R18-8-262.A and AAC R18-8-270.A [40 Code of Federal Regulations (CFR)]

¹ All citations to the "AAC" refer to Title 18 Chapter 8 of the Arizona Administrative Code. EPA is enforcing Arizona hazardous waste management program requirements as approved and authorized by the United States. Corresponding Federal citations are provided in brackets.

- § 262.34(a)(4) and 40 CFR § 270.1(c)];
2. Failure to mark hazardous waste containers with an accumulation start date, AAC R18-262.A [40 CFR §262.34(a)(2)];
 3. Failure to mark hazardous waste containers with the words "Hazardous Waste" AAC R18-262.A [40 CFR §262.34(a)(3)];
 4. Failure to place hazardous waste in containers or tanks that meet applicable requirements, AAC R18-262.A [40 CFR § 262.34(a)(1)];
 5. Failure to determine if wastes generated are hazardous, AAC R18-8-262.A [40 CFR § 262.11];
 6. Failure to prepare a manifest for transport of hazardous waste, A.A.C. R18-8-262.A [40 CFR § 262.20];
 7. Failure to close containers of hazardous waste, A.A.C. R18-8-262.A and AAC R18-8-265.A [40 CFR § 262.34(a)(4) and 40 CFR § 265.173];
 8. Failure to maintain aisle space, A.A.C. R18-8-262.A and AAC R18-8-265.A [40 CFR § 262.34(a)(4) and 40 CFR § 265.35];
 9. Failure to develop and implement a hazardous waste manage personnel training program, A.A.C. R18-8-262.A and AAC R18-8-265.A [40 CFR § 262.34(a)(4) and 40 CFR § 265.16];
 10. Failure to [maintain/install] required emergency equipment, A.A.C. R18-8-262.A and AAC R18-8-265.A [40 CFR § 262.34(a)(4) and §265.31-34];
 11. Failure to meet universal waste requirements, A.A.C. R18-8-273 [40 CFR § 273.1]; and
 12. Failure to maintain and operate the facility to minimize the possibility of a release of hazardous waste, AAC R18-8-265.A [40 CFR § 265.31].

In anticipation of filing a Determination of Violation, Compliance Order and Notice of Right to Request a Hearing (hereinafter "Complaint") against AeroTurbine, EPA is extending AeroTurbine the opportunity to submit any information that EPA should consider before issuing the Complaint. Relevant information may include any evidence of reliance on compliance assistance, additional compliance tasks performed subsequently to the inspection, or financial factors bearing on AeroTurbine's ability to pay a civil penalty. In addition, EPA encourages AeroTurbine to explore the possibility of settlement. If you are interested in commencing settlement negotiations, please contact Rick Sakow of my staff at by phone at (415) 972-3495 or via email at sakow.rick@epa.gov, or have your counsel contact Rebecca Sugerman in our Office of Regional Counsel by phone at (415) 972-3893 or via email at sugerman.rebecca@epa.gov by March 3rd, 2017 to schedule a meeting or

conference call.

It is EPA's intention to file a Complaint against AeroTurbine within the next 6 weeks unless AeroTurbine advises EPA of substantial reasons not to proceed. You may also submit a response via certified mail, return receipt requested, addressed to:

Rick Sakow
U.S. Environmental Protection Agency, Region 9
Waste and Chemical Section, ENF 2-2
75 Hawthorne Street
San Francisco, CA 94105

Any penalty discussed in settlement negotiations for violations of RCRA and its implementing regulations will be calculated pursuant to EPA's June 23, 2003 *RCRA Civil Penalty Policy* and the July 27, 2016 guidance on establishing penalty amounts. A copy of the *RCRA Civil Penalty Policy* is available for download from EPA's website at <http://www2.epa.gov/sites/production/files/documents/rcpp2003-fnl.pdf> and the updated guidance is available for download at <https://www.epa.gov/sites/production/files/2017-01/documents/finalpenaltyinflationguidance.pdf>. Also, EPA's *Supplemental Environmental Projects Policy (SEP Policy)* is available for download from EPA's website at <https://www.epa.gov/sites/production/files/2015-04/documents/sepupdatedpolicy15.pdf>. EPA's *SEP Policy* describes the terms under which a commitment to perform an environmental project may mitigate, in part, an EPA civil penalty. You may have been provided during the inspection with a Small Business Regulatory Enforcement and Fairness Act (SBREFA) Information Sheet. If not, please see <http://www.epa.gov/sbo/pdfs/smallbusiness-resources.pdf>. The Information Sheet is designed to provide information on compliance assistance and inform small businesses of their rights to comment to the SBREFA Ombudsman concerning EPA enforcement activities. Be aware that the SBREFA does not eliminate your responsibilities to respond to this letter within the allowed time nor does it create any new rights or defenses under the law.

EPA offers small businesses a wide variety of compliance assistance resources and tools designed to assist them to comply with Federal and State environmental laws. These resources and tools are contained in the enclosed fact sheet of supplemental information for small businesses subject to an EPA enforcement action. Also enclosed for your information are requirements of the Securities and Exchange Commission ("SEC") for "registrants" to provide information on environmental legal proceedings to the public. To determine the applicability of these requirements to your company you should seek competent legal counsel as described in the enclosed Notice.

Confidential Business Information

EPA regulations governing confidentiality of business information are set forth in 40 CFR Part 2, Subpart B. If you believe that any portion of your response to this Notice of Intent to File is entitled to confidential treatment, please identify any such information in your response and assert a confidentiality claim in accordance with 40 CFR § 2.203(b). If EPA determines that the information over which you assert a claim meets the criteria set forth in 40 CFR § 2.208, the information will be disclosed only to the extent, and by means of the procedures specified in 40 CFR Part 2, Subpart B.

EPA will construe the failure to furnish a confidentiality claim within **fourteen (14) calendar days** from the date EPA receives a response to this Notice as a waiver of that claim and information may be made available to the public by EPA without further notice. See, 40 CFR § 2.203(a)(2).

The Arizona Department of Environmental Quality is not a party to this enforcement action, however, EPA has provided information on the investigation to ADEQ and a copy of this Notice of Intent to File a Complaint is being sent to ADEQ.

Thank you for your prompt attention to this matter. If you have any questions, please contact Rick Sakow of my staff at (415) 972-3495, or have your counsel contact Rebecca Sugerman in our Office of Regional Counsel at (415) 972-3893.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. McDaniel', with a horizontal line extending to the right.

Douglas K. McDaniel
Chief, Waste and Chemical Section
Enforcement Division

Enclosure: U.S. EPA Small Business Resources Information Sheet

cc: Phillip Fowle, EHS Manager, AeroTurbine Goodyear facility
Terry Baer, ADEQ Hazardous Waste Unit (via email)